



IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
AIKEN DIVISION

JOSHUA ASHTON FLOYD, §
Plaintiff, §
§
vs. § Civil Action No. 1:18-cv-1677-MGL
§
DIRECTOR PATRICIA RAY AND §
OFFICER TAMMY MOSES, in their §
individual and official capacities, §
Defendants. §
§

ORDER ADOPTING REPORT AND RECOMMENDATION
AND DISMISSING PLAINTIFF'S ACTION WITHOUT
PREJUDICE FOR FAILURE TO PROSECUTE

Plaintiff Joshua Ashton Floyd (Floyd), proceeding pro se, filed this action alleging violations of his constitutional rights by Defendants Director Patricia Ray and Officer Tammy Moses (collectively Defendants). This action is before the Court for review of the Report and Recommendation (Report) of the United States Magistrate Judge suggesting Floyd's action be dismissed without prejudice for failure to prosecute. The Report was made in accordance with 28 U.S.C. § 636 and Local Civil Rule 73.02 for the District of South Carolina.

On February 22, 2019, Defendants filed a motion for summary judgment. ECF No. 35. On February 25, the Magistrate Judge issued a *Roseboro* order advising Floyd that failure to respond adequately by March 28, 2019 may result in the motion being granted. ECF No. 37. Notwithstanding the specific warning and instruction set forth in the *Roseboro* order, Floyd failed

to file a response to Defendants' motion. The Magistrate Judge issued a second order on April 2, 2019, advising Floyd that a failure to respond by April, 16, 2019, would result in the Magistrate Judge recommending the action be dismissed for failure to prosecute. ECF No. 39. Floyd again neglected to file a response.

Based on Floyd's failure to respond to the Court's February 25, 2019 and April 2, 2019, orders, the Court concludes Floyd does not oppose Defendants' motion and wishes to abandon this matter. As Floyd has failed to prosecute this case and failed to comply with the Court's orders, the case is dismissed without prejudice pursuant to Rule 41 of the Federal Rules of Civil Procedure.

See Link v. Wabash R.R. Co., 370 U.S. 626, 629-36 (1962).

To the extent Floyd requests a certificate of appealability from this Court, that certificate is **DENIED**.

IT IS SO ORDERED.

Signed this 15th day of May, 2019, in Columbia, South Carolina.

s/ Mary Geiger Lewis
MARY GEIGER LEWIS
UNITED STATES DISTRICT JUDGE

NOTICE OF RIGHT TO APPEAL

The parties are hereby notified of the right to appeal this Order within thirty days from the date hereof, pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure.